IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4698 OF 2005

1. Smt.Mrudala Yogesh Munim.
2. Shri Alok Yogesh Munim.
3. Shri Bharat Yogesh Munim. ... Applicants

Versus.

The State of Maharashtra. ... Respondents.

Shri A.P.Mundargi with Shri Peter Lobo and S.D.Kadam
for the Applicants.

Ms.M.M.Deshmukh, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 26th July, 2005.

P.C.:

1. Heard learned Counsel appearing for the Applicants

and the learned A.P.P. for the State.

2. This is an application for anticipatory bail in connection with C.R.No.309 of 2005 registered at Panchavati Police Station for the alleged offence under sections 3 and 7 of the Essential Commodities Act, 1955. The case of the prosecution is that on 13th June 2005 at about 11.00 a.m. a tanker owned by the Applicant No.2 bearing No.MH-15-G-3954 was filled with 12,000 litres of kerosene at the outlet of Indian Oil Corporation at Vashi, Navi Mumbai. The case of the prosecution is that on 13th June 2005 at about 10.30 p.m. an anonymous message was received on telephone that a tanker bearing

no.MH-15-G-3954 had unloaded kerosene at a shed situated on land bearing Gat No.82 and 83 at Adgaon. A raid was conducted at the said place at about 11.15 p.m. and 10,105 litres of kerosene was found in the shed which was stored in barrels. It is alleged that the kerosene was stored at the instance of one Manoj Shah. At 9.00 a.m. on 14th June 2005 the said tanker was seized.

3. The learned Counsel for the Applicants submitted that in the morning on 14th June 2005 when the tanker was seized it was fully loaded with 12,000 litres of kerosene as per the invoice issued by the Indian Oil Corporation, Vashi, and therefore, it was not possible to believe that the tanker has off-loaded 10,500 litres of kerosene which was seized by the Police on 14th June 2005. He submitted that it is difficult to believe the case of the prosecution.

4. The leaned A.P.P. submitted that when the Tanker was seized it was found that there was some difference in the quantity of kerosene in the tanker from the quantity kerosene which was filled in at Vashi. The learned A.P.P. invited my attention to the seizure panchanama.

5. I have considered the submissions. It is not in dispute that when the tanker was seized at 9.30 a.m. in

the morning it was filled with kerosene. The case of the prosecution is that from the same tanker, in the night of 13th June 2005, kerosene was unloaded. However, the seizure panchanama which is shown to me records that the tanker was not at the spot where it was seized till 1.00 a.m. There is hardly any material on record even to suggest that fresh stock of kerosene was filled in the tanker after 10.30 in the night on 13th June 2005.

6. The seizure of the truck is already effected. The Applicant No.1 is a woman. Applicant No.2 is the person in whose name the tanker stands. The Applicant No.3 is stated to be looking after the day-to-day office work of M/s.Yogeshwar Petroleum Products a business which belongs to the Applicant No.1. Considering the material on record and considering the fact that there is a seizure of the tanker, this is not a case in which custodial interrogation of the Applicants is required and therefore, the Applicants are entitled to be enlarged on anticipatory bail. No criminal antecedents have been alleged against the Applicant. There is nothing on record to show that they will abscond.

7. Hence the following order is passed:

(i) In the event of the arrest of the Applicants in connection with C.R.No.3091

of 2005 registered at Panchavati Police Station the Applicants shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.20,000/- each with one or two sureties in the like amount.

(ii) The Anticipatory Bail is granted subject to condition that the Applicants will attend the concerned Police Station as and when called upon to do so and will cooperate with the investigation till charge sheet is filed.

(iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/ Investigating Agency. The Applicant shall not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the benefit of the Applicants only till charge sheet is filed. Thereafter they will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is disposed of in above terms.

(vii) The parties to act upon an authenticated copy of this order.

Judge.